

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW HAMPSHIRE**

Pauline LeSan,)
Plaintiff)
)
v.) Docket No.:
) JURY TRIAL DEMAND
Tipton Trucking Company, Inc.,)
and)
Michael Daliessio,)
Defendants)

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES AND JURISDICTION

1. The Plaintiff Pauline LeSan is New Hampshire resident with an address of 32 Spruce Terrace, Derry, New Hampshire, 03038.
2. The Defendant Tipton Trucking Company, Inc., is a foreign Corporation with a principal place of business at 397 Waterway Road, Oxford, Pennsylvania, 19363.
3. The Defendant Michael Daliessio currently resides at 54 Glenhurst Drive, Frederica, Delaware, 19946.
4. Jurisdiction is invoked pursuant to 28 U.S.C. §1332(a), based on diversity of citizenship. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.
5. Venue is proper in this Court pursuant to 28 U.S.C. §1391 in that the subject motor vehicle crashes and personal injury of June 9, 2020, occurred in Derry, New Hampshire.

BASIC FACTS OF THE INCIDENT

6. The Defendant Tipton Trucking Company, Inc., was the owner of the vehicle driven by the Defendant Michael Daliessio on June 9, 2020.
7. The Defendant Michael Daliessio was the driver of a commercial motor vehicle, a 2001 Western Star truck tractor trailer, owned by the Defendant Tipton Trucking Company, Inc.
8. Plaintiff Pauline LeSan was the driver of a vehicle owned by herself.
9. On June 9, 2020, Plaintiff Pauline LeSan, was operating her vehicle on an interstate highway, I-93 Southbound, in Derry, New Hampshire, in the center lane.
10. The Plaintiff's vehicle was struck from behind by the tractor trailer owned by the Defendant Tipton Trucking Company, Inc, propelling her vehicle into the breakdown lane.
11. After striking Ms. LeSan's vehicle on the rear bumper, the tractor trailer went into a spin, causing it to strike Ms. LeSan's vehicle a second time on the driver's side door jam and sending it down into the ditch off the center median.
12. The two collisions caused the Plaintiff numerous traumatic injuries, pain and suffering, and extreme emotional distress, requiring long standing and expensive medical care and treatment.
13. The Defendant Michael Daliessio was found at fault for the collision due to being inattentive and careless while changing lanes.

COUNT I-NEGLIGENCE (DIRECT LIABILITY) - PLAINTIFF V. MICHAEL DALIESIO

14. Each and every fact and allegation stated above is incorporated herein and made a part hereof as if fully restated.

15. The incident, injuries and damages described herein were caused by the carelessness, negligence, and negligence per se of Defendant Daliessio, in the following particular respects:

- a. Failing to operate the vehicle with due care and with due regard for the safety of others;
- b. Failing to maintain a proper and adequate lookout;
- c. Failing to operate the vehicle with due care and due regard for road conditions;
- d. Failing to operate the vehicle at a safe and reasonable speed;
- e. Failing to properly observe and react to conditions existing at the time of the incident;
- f. Failing to brake and timely stop the vehicle;
- g. Failing to take other avoidance measures;
- h. Failing to remain alert and attentive;
- i. Failing to maintain a safe distance between the tractor trailer that he was operating truck and the motor vehicles in front of him; and

j. Violating and failing to adhere to applicable statutes, ordinances, rules, regulations, and standards governing or relating to the operation of motor vehicles and otherwise to exercise due care in the operation of the tractor trailer.

16. The foregoing carelessness, negligence, and negligence per se of Defendant Michael Daliessio created a foreseeable risk of injury and death to other motorists on said interstate highway and were a substantial contributing factor in causing the Plaintiff's injuries and damages.

WHEREFORE, the Plaintiff, Pauline LeSan, seeks and demands judgment against the Defendants in the amount of her damages, costs and interest in reasonable attorney's fees.

COUNT II - NEGLIGENCE (DIRECT LIABILITY) –

PLAINTIFF V. THE DEFENDANT TIPTON TRUCKING COMPANY, INC.

17. Each and every fact and allegation stated above is incorporated herein and made a part hereof as if fully restated.

18. The incident, injuries and damages described herein were caused by the carelessness and negligence of The Defendant Tipton Trucking Company, Inc., individually, jointly and/or severally, by and/or through their agents, workmen, servants and/or employees, both generally and in the following particular respects:

- a. Failing to hire safe and competent drivers;
- b. Hiring and/or otherwise retaining Defendant Michael Daliessio, as a driver;

- c. Failing to ensure that only competent, qualified, safe and experienced drivers were retained;
 - d. Failing to ensure the proper training of Defendant Michael Daliessio; and
 - e. Failing to properly supervise Defendant Michael Daliessio.
19. The foregoing carelessness and negligence of the Defendant Tipton Trucking Company, Inc., increased the risk of harm, injuries and damages described herein, and were a substantial contributing factor in causing those injuries and damages to the Plaintiff.

WHEREFORE, the Plaintiff, Pauline LeSan, seeks and demands judgment against the Defendant in the amount of her damages plus costs and interest.

**COUNT III - NEGLIGENCE (VICARIOUS LIABILITY) –
PLAINTIFF V. THE DEFENDANT TIPTON TRUCKING COMPANY, INC.**

20. Each and every fact and allegation stated above is incorporated herein and made a part hereof as if fully restated.
21. At all times relevant, the Defendant Michael Daliessio was acting within the scope of his employment with the Defendant Tipton Trucking Company, Inc.
22. In the circumstances, the Defendant Tipton Trucking Company, Inc., is vicariously liable for the actions of the Defendant Michael Daliessio.

WHEREFORE, the Plaintiff, Pauline LeSan, seeks and demands judgment against the Defendant in the amount of her damages plus costs and interest.

JURY DEMAND

Pauline LeSan demands a jury on all counts so triable.

Respectfully submitted,

PAULINE LESAN

By and through her attorneys,

SHAHEEN & GORDON, P.A.

Dated: April 13, 2021

By: \s\ Francis G. Murphy

Francis Murphy, Esquire
NH BAR ID 1840
180 Bridge Street
Manchester, NH 03104
(603) 669-8080
fmurphy@shaheengordon.com